IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 845 (S/S) of 2006

Sharafat Ali,
S/o Sri Asgar Ali,
R/o Village – Morowala,
P.O. – Clementown Dehradun. **……Petitioner**

Versus

1. State of Uttaranchal, through Secretary, Home, Uttaranchal, Dehradun.
2. Inspector General of Police (Karmik), Police, Dehradun.
3. Deputy Inspector General of Police Garhwal Region, Uttaranchal.
4. Senior Superintendent of Police, Garhwal, Region, Uttaranchal.

… …Respondents

Hon'ble M.M. Ghildiyal, J.

1. Heard Sri Tanuj Semwal, learned counsel for the petitioner and learned standing counsel for respondents.

2. By means of this writ petition, the petitioner has prayed for the following reliefs:

   A. *to issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 22.05.2006 (Annexure No. 1 to this writ petition) passed by respondents.*

   B. *to issue a writ, order or direction in the nature of Mandamus commanding the respondents to reinstate the petitioner's appointment in training as recruit*

constable and set aside the recovery proceeding against the petitioner.

C. *to issue a writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.*

D. *Award the cost of the writ petition in favour of the petitioner.*

3. By the impugned order dated 22.05.2006 passed by Senior Superintendent of Police, Dehradun the appointment of the petitioner on the post of Constable in Police Department was cancelled on the ground that he has concealed his involvement in the criminal case no. 28 of 2004 registered under section 427, 504, 506 and 500 IPC.

4. Learned counsel for the petitioner has contended that the petitioner has already been acquitted by the competent court i.e. Judicial Magistrate – I, Dehradun in the aforesaid case.

5. Learned counsel for the petitioner has relied upon judgement passed by Allahabad High Court in the case of Quamrul Hoda Vs. Chief Security Commissioner, NE Railway, Gorakhpur, reported in ALR 1997 page 661. Counsel for the petitioner has further submitted that he has filed an appeal against the impugned order dated 22.05.2006 passed by Senior Superintendent of Police, Dehradun before Deputy Inspector General of Police, Garhwal Region, Uttaranchal and the same is still pending.

6. Petitioner cannot avail two remedies simultaneously. Since the appeal is already pending before respondent no. 3, accordingly, I deem fit and proper to direct the respondent no. 3 to take decision on the petitioner's appeal within a period of one month from the date of production of certified copy of this order. It will be just and proper to stay the recovery proceedings initiated against the petitioner till the disposal of appeal pending before respondent no. 3.

7. With this direction the writ petition is finally disposed of. No order as costs.

(M.M. Ghildiyal, J)

June 28, 2006
SKSharma